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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/628,369	07/29/2003	Cullen Edwin Bash	200310137-1	5156
22879	7590	11/30/2005		
HEWLETT PACKARD COMPANY P O BOX 272400, 3404 E. HARMONY ROAD INTELLECTUAL PROPERTY ADMINISTRATION FORT COLLINS, CO 80527-2400			EXAMINER JIANG, CHEN WEN	
			ART UNIT	PAPER NUMBER
			3744	

DATE MAILED: 11/30/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	Application No.	Applicant(s)	
	10/628,369	BASH ET AL.	
	Examiner	Art Unit	
	Chen-Wen Jiang	3744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
  - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
  - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
  - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 16 September 2005.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 29 July 2003 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### *Election/Restrictions*

1. Applicant's election with traverse of species I in the reply filed on 9/16/2005 is acknowledged. The traversal is on the ground(s) that some or all of the claims associated with the non-elected species of this application can be concurrently examined with the claims of the elected species without serious burden. This is found persuasive; therefore the restriction requirement mailed 8/18/2005 has been withdrawn.

### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-14,16-21,23-37, and 39 are rejected under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Chibou et al. (JP 02078848).

In regard to claims 1-4,7-9,12-14,16-19,21,23-37 and 39, referring to Figs. 1-3, Chibou et al. disclose an air conditioner with sensing device. The device comprises infrared temperature sensor 2, driving device 12, target room temperature, air direction adjusting device 5, a blower 7 with rpm control and a controller 1. The controller 1 composed a microcomputer and may detect a distribution of temperature in an indoor area in response to a signal from an infrared rays temperature sensor 2 for detecting a radiation of the infrared rays from each of the interior locations. Image display LED 10 indicated the temperature distribution. A controlling operation

of an air direction-adjusting device 5 for determining an air blowing direction is carried out by an air control part 4 in response to these results.

In regard to claims 10 and 11, Examiner states that these limitations are well known in the prior art.

In regard to claims 5,6,21,28,37, it would have been obvious to one of ordinary skill in the exercise art to substitute one for other of equivalent sensors available in the prior art. In re Fout, 675 F.2d 297, 301, 213 USPQ 532, 536 (CCPA 1982).

In regard to claim 20, the addition of duplicate parts to the apparatus is not the type of innovation for a patent to be granted. *St. Regis Paper Co. v. Bemis Co., Inc.*, 193 USPQ 8, 11 (7<sup>th</sup> Cir. 1977).

Under the principals of inherency, if a prior art device, in its normal and usual operation, would necessarily perform the method claimed, then the method claimed will be considered to be anticipated by the prior art device. When the prior art device is the same as a device described in the specification for carrying out the claimed method, it can be assumed the device will inherently perform the claimed process. *Ir re King*, 801 F.2d 1324, 231 USPQ 136 (Fed. Cir. 1986).

### ***Double Patenting***

4. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the “right to exclude” granted by a patent and to prevent possible harassment by multiple assignees. A nonstatutory obviousness-type double patenting rejection is appropriate where the conflicting claims are not identical, but at least one examined application claim is not patentably distinct from the reference claim(s) because the examined application claim is either anticipated by, or would have been obvious over, the reference claim(s). See, e.g., *In re Berg*, 140 F.3d 1428, 46 USPQ2d 1226 (Fed. Cir. 1998); *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re*

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Van Ornum, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); In re Vogel, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and In re Thorington, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) or 1.321(d) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent either is shown to be commonly owned with this application, or claims an invention made as a result of activities undertaken within the scope of a joint research agreement.

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

5. Claims 1-39 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-46 of copending Application No. 10/639,428 in view of Chibou et al. (JP 02078848). '428 discloses the invention substantially as claimed. However, '428 does not disclose temperature memory and imaging system. Chibou et al. disclose temperature memory and imaging system in the same field of endeavor for the purpose of controlling temperature. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of '428 with a temperature memory and imaging system in view of Chibou et al. so as to obtain better distribution.

This is a provisional obviousness-type double patenting rejection.

6. Claims 1-39 are provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-42 of copending Application No. 10/446,867 in view of Chibou et al. (JP 02078848). '867 discloses the invention substantially as claimed. However, '867 does not disclose temperature memory and imaging system. Chibou et al. disclose temperature memory and imaging system in the same field of endeavor for the purpose of controlling temperature. Therefore, it would have been obvious to one having ordinary skill in the art at the time the invention was made to provide the apparatus of '867 with

a temperature memory and imaging system in view of Chibou et al. so as to obtain better distribution.

This is a provisional obviousness-type double patenting rejection.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chen-Wen Jiang whose telephone number is (571) 272-4809.

The examiner can normally be reached on Monday-Thursday from 8:00 to 6:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Melba Bumgarner can be reached on (571) 272-4709. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Chen-Wen Jiang  
Primary Examiner

